

United States Senate
WASHINGTON, DC 20510

November 9, 2021

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

After over a century of failed and racist cannabis policies, we write to urge a change of course: we request that you use your executive authority to pardon all individuals convicted of non-violent cannabis offenses, whether formerly or currently incarcerated.

America's cannabis policies have punished Black and Brown communities for too long. Beginning at the turn of the 20th century, states enacted anti-cannabis laws to specifically target Mexican immigrants and Mexican Americans.¹ By 1937, the battle against cannabis—buoyed by a high-profile campaign relying on racist tropes—had escalated to a federal ban.² In the 1970s, President Nixon launched the War on Drugs over the objections of his own advisors and experts,³ spawning mass incarceration policies with devastating effects on Black and Brown families.⁴ Today, despite legalization efforts across the country and roughly equal cannabis usage rates, Black Americans are still nearly four times as likely to be arrested for cannabis possession as white Americans.⁵

These policies are increasingly out of step with the views of the American public. Nearly 7 in 10 Americans believe that cannabis should be legalized.⁶ Eighteen states, two territories, and the District of Columbia have legalized cannabis for recreational use, all in the past decade.⁷

¹ Drug Policy Alliance, "A Brief History of the Drug War," <https://drugpolicy.org/issues/brief-history-drug-war>.

² Britannica, "Why Is Marijuana Illegal in the U.S.?", <https://www.britannica.com/story/why-is-marijuana-illegal-in-the-us>.

³ New York Times, "National Commission to Propose Legal Private Use of Marijuana," Fred P. Graham, February 13, 1972, <https://www.nytimes.com/1972/02/13/archives/national-commission-to-propose-legal-private-use-of-marijuana.html>.

⁴ Associated Press, "50-Year War on Drugs Imprisoned Millions of Black Americans," Aaron Morrison, July 23, 2021, <https://apnews.com/article/war-on-drugs-75e61c224de3a394235df80de7d70b70>.

⁵ ACLU, "A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform," March 2021, p. 5, https://www.aclu.org/sites/default/files/field_document/marijuanareport_03232021.pdf.

⁶ Quinnipiac University Poll, "Majority Support Stricter Gun Laws, Quinnipiac University National Poll Finds; Stark Divides On Views Of Police And Voting Issues," April 15, 2021, <https://poll.qu.edu/poll-release?releaseid=3809>; Pew Research Center, "Two-Thirds of Americans Support Marijuana Legalization," Andrew Daniller, November 14, 2019, <https://www.pewresearch.org/fact-tank/2019/11/14/americans-support-marijuana-legalization>.

⁷ National Conference of State Legislatures, "Cannabis Overview," Michael Hartman, July 6, 2021, <https://www.ncsl.org/research/civil-and-criminal-justice/marijuana-overview.aspx>.

Twenty-seven states—ranging from New York to North Dakota—plus D.C. have decriminalized the possession of small amounts of cannabis.⁸ Thirty-six states, three territories, and D.C. have allowed for the medical use of cannabis.⁹ And a number of tribal governments have legalized cannabis for various purposes.¹⁰

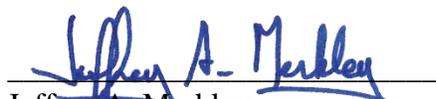
Our country’s cannabis policies must be completely overhauled, but you have the power to act now: you can and should issue a blanket pardon for all non-violent federal cannabis offenses, fulfilling your promises to the American people and transforming the lives of tens of thousands Americans.¹¹ As a candidate for President, you argued that “we should decriminalize marijuana” and “everyone [with a marijuana record] should be let out of jail, their records expunged, be completely zeroed out.”¹² The first and simplest step in the process is a blanket pardon. The Constitution grants you the authority to pardon broad classes of Americans to correct widespread injustice, as previous Presidents have done.¹³ Most importantly, such a pardon—combined with your leadership on an accessible expungement process to formally clear the criminal records of those affected—would mark the beginning of a reversal of decades of ineffective and discriminatory cannabis policies, allowing Americans to return to their communities, find housing and jobs, and rebuild their lives without the burdens of an unjustly imposed criminal record.

We urge you to act swiftly on behalf of the countless Americans punished by the country’s senseless cannabis laws. Thank you for your attention to this important matter.

Sincerely,


Elizabeth Warren
United States Senator


Edward J. Markey
United States Senator


Jeffrey A. Merkley
United States Senator

⁸ *Id.*

⁹ National Conference of State Legislatures, “State Medical Marijuana Laws,” August 23, 2021, <https://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>.

¹⁰ National Law Review, “New Administration Could Provide Ideal Backdrop for Tribes Entering Cannabis Industry,” Robert A. Conrad and Laura E. Jones, December 27, 2020, <https://www.natlawreview.com/article/new-administration-could-provide-ideal-backdrop-tribes-entering-cannabis-industry>.

¹¹ U.S. Sentencing Commission, “Quick Facts: Marijuana Trafficking Offenses,” June 2021, pg. 1, https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Marijuana_FY20.pdf.

¹² NBC News, “Read: Democratic Debate Transcript, November 20, 2019,” <https://www.nbcnews.com/politics/2020-election/read-democratic-debate-transcript-november-20-2019-n1088186>.

¹³ Congressional Research Service, “Presidential Pardons: Overview and Selected Legal Issues,” Michael A. Foster, January 2020, pp. 4-5, <https://crsreports.congress.gov/product/pdf/R/R46179>.